

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JADA HOWARD,

Plaintiff,

v.

WALMART INC.,

Defendant.

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Civil Case No. **3:23-CV-0118-L-BH**

ORDER

The Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 23) was entered on September 22, 2023, recommending that the court **grant** Defendant Walmart Inc.’s (“Walmart”) Motion to Dismiss (Doc. 14), *sua sponte* **dismiss** Plaintiff Jada Howard’s (“Plaintiff”) state law claims, **deny** as moot Walmart’s Motion for More Definite Statement (Doc. 14), and **dismiss** pro se Plaintiff’s complaint (Doc. 3). Report 1.

Liberally construed, Plaintiff’s complaint alleges claims for discrimination, hostile work environment, and constructive discharge under Title VII of the Civil Rights Act of 1964 (“Title VII”) and Chapter 21 of the Texas Labor Code (“Chapter 21”), against her employer, Walmart. *Id.* Specifically, Plaintiff, an “African American women,” alleges that her supervisor at Walmart sent her pornography “at 10 a.m. to 12 p.m. to her cell phone during working hours causing undue stress and duress.” Compl. 2. Pursuant to Federal Rule of Civil Procedure 12(b)(6), Walmart moved to dismiss Plaintiff’s discrimination, hostile work environment, and constructive discharge claims under Title VII for failure to state a claim. In the Report, the Magistrate Judge also recommends *sua sponte* dismissing Plaintiff’s state law claims under Chapter 21, for failure to

state a claim. Report 9. Plaintiff did not file objections to the Report, and the time to do so has passed.


The Report concludes that other than stating that the supervisor sent her pornography during working hours—she has failed to allege any facts to support her conclusory claims. Therefore, the court should grant her an opportunity to amend her pleadings. The Report further recommends that:

If Plaintiff does not file an amended complaint within the 14 days allowed for objections to this recommendation, or by a deadline otherwise set by the Court, Defendant's motion to dismiss should be GRANTED, her Title VII claims should be DISMISSED with prejudice for failure to state a claim, and her Chapter 21 claims should be DISMISSED with prejudice sua sponte for failure to state a claim.

Report 10-11.

Having considered the Motion, Complaint, Report, file, and record in this case, the court determines that the magistrate judge's finding and conclusions in the Report are correct and **accepts** them as those of the court. Accordingly, Defendant's Motion to Dismiss is **granted** and Defendant's Motion for More Definite Statement is **denied as moot**. The court agrees, however, with the Report's recommendation that it is in the interests of justice to permit Plaintiff an opportunity to amend her claims by a deadline set by the court. Accordingly, the court **grants** Plaintiff leave to file an amended complaint to include any allegations that Walmart discriminated against her, created a hostile work environment, and constructively discharged her in violation of Title VII and Chapter 21. Plaintiff must file her Second Amended Complaint **on or before December 27, 2023**. Failure to do so by that date will result in dismissal of this action with prejudice. *See* Fed. R. Civ. P. 12(b)(6).

It is so ordered this 6th day of December, 2023.


Sam A. Lindsay
United States District Judge